

(2010) 07 SHI CK 0013
In the High Court Of Himachal Pradesh

Suresh Kumar

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 05-07-2010

Acts Referred:

Citation : (2010) 07 SHI CK 0013

Hon'ble Judges : Kurian Joseph, C.J.;Kuldip Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Kurian Joseph, C.J.—The Writ Petition is filed mainly with the following prayer:

i) That a writ of mandamus may kindly be issued and the respondents may be directed to consider the case of petitioner for appointment as T.G.T Arts against the quota meant for Wards of Ex-servicemen belonging to Scheduled Caste category with all consequential benefits.

2. In the reply at para 3, it is stated as follows:

3. That in reply to the contents of this para it is submitted that the present writ petition filed by the petitioner is not maintainable before this Hon'ble High Court due to the fact that the subject combination of the petitioner in B.A. is not as per approved subjects' combination by the Government for the appointment to the post of TGT (Arts). The commissioner-cum-Secretary Education to the Government of Himachal Pradesh on dated 27.2.1999, 5.11.1999 and 31.5.2000 has approved the subject combination as per Annexure R-1 i.e. B.A. B.Ed from a recognized University with English and two other school teaching subjects. The petitioner has studied English, Political Science and Office Management in B.A. whereas Office Management is not approved school teaching subject. It is further submitted that appointment to the petitioner could not be offered as he has not passed B.A. with approved subject combination neither as per previous R& P Rules nor as per existing R& P Rules dated 22.10.2009, copy of which annexed as Annexure P-13 with the present writ petition. Therefore, subject combination

is not as per norms approved by the Government for appointment to the post of TGT (Arts). Hence the petitioner is not eligible for appointment. Therefore, the present writ petition filed by the petitioner being devoid of any merit is liable to be dismissed in the interest of justice.

3. We are afraid, the respondents have not appreciated the

facts properly. This is a case where the petitioner was called for interview as per Annexure P-5, letter dated 23.7.2009 and interview was to be held on 5.8.2009. Admittedly, the position as on that date was that the essential qualification was only of graduation in the subject concerned. The subject combination was prescribed only as per Annexure P-13, Notification dated 22.10.2009. According to the learned Senior Additional Advocate General, it is only a clarification. That contention also cannot be appreciated. It is not a clarification simplicitor. It has the effect of amending the basic qualification. In respect of a vacancy notified and the selection process commenced, the same has to be concluded only in terms of the conditions of service including the qualification governing the post as on the date of the notification. The amendment would be applicable only in respect of the vacancies which arose after the amendment and for which selection process had been commenced. That is a well settled position under the law as per the decision of the Supreme Court in *Y.V. Rangaiah and Others Vs. J. Sreenivasa Rao and Others*, and *A. Manoharan and Others Vs. Union of India (UOI) and Others*,

4. Therefore, the impugned orders are quashed and the Writ Petition is allowed directing the respondents to process the case of the petitioner treating him as duly qualified. The needful, in this regard shall be done within a period of one month from the date of production of the copy of this judgment alongwith a copy of the Writ Petition.

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